

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KINGSLEY BROWN,

Plaintiff,

vs.

09-CV-0371

BRIAN FISCHER, Commissioner, N.Y.S.  
Dept. of Corrections,

Defendant.

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Thomas J. McAvoy,  
Sr. U.S. District Judge

**DECISION & ORDER**

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Hon. David R. Homer, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation dated December 8, 2010 recommended that the Defendants' motion for summary judgment be granted. Plaintiff filed objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in

part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.”

Id.

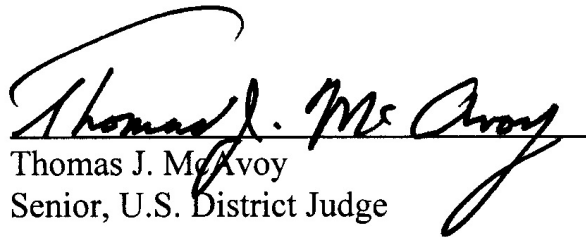
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Homer for the reasons stated in the Report-Recommendation.

It is therefore

ORDERED that Defendants’ Motion for Summary Judgement is GRANTED and Plaintiff’s Complaint DISMISSED in its entirety.

IT IS SO ORDERED.

DATED: February 8, 2011

  
Thomas J. McAvoy  
Senior, U.S. District Judge